

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

Nos. 07-4059, et al.; Nos. 10-5301, et al.

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

LEARLEY R. GOODWIN, PAULETTE MARTIN, LANORA N. ALI,
REECE C. WHITING, DERREK L. BYNUM, and LAVON DOBIE,
Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

OPPOSITION OF THE UNITED STATES
TO MOTION TO CONSOLIDATE APPEALS

On January 10, 2011, three of the six defendants-appellants in the above-captioned case (Martin, Goodwin, and Bynum) moved to consolidate the appeals that they and the three other defendants-appellants filed in January 2007, Nos. 07-4059, et al. ("2007 appeals"), with the appeals that Martin, Goodwin, and Bynum filed in December 2010, Nos. 10-5301, et al. ("2010 appeals"). For the reasons set forth below, the United States of America, appellee herein, respectfully opposes that motion to consolidate.

1. There are six defendant-appellants in the 2007 appeals, which have now been pending for four years. After seeking nine extensions of time, the appellants filed their opening page-proof brief on November 2, 2010. The page-proof brief of the appellee United States in the 2007 case is due on one extension on February 7, 2011, and the government fully intends to file its brief by that date.

2. On April 15, 2010, more than three years after the six defendants had filed their notices of appeal from the 2007 judgments, some but not all of those defendants filed a motion to vacate the prior forfeiture orders in the case. Following a hearing in November 2010, the district court denied that motion in an order entered on December 7, 2010. R. 1422. Three of the six defendants in the 2007 appeals then filed new notices of appeal. This Court consolidated the three 2010 appeals in an order filed on December 30, 2010.

3. The United States respectfully disagrees with the movants' assertion that there is a "substantial overlap of issues" between the 2007 appeals and the 2010 appeals. See Motion to Consolidate at 3. To the extent that the appeals overlap at all, they do so only with respect to sub-issue I.C. at pages 55-62 of defendants' opening brief in the 2007 appeals (whether the district court timely entered the orders of forfeiture). Even with respect to that sub-issue, the overlap is not exact, because the 2007 appeals concern forfeiture actions taken by the district court in 2006 and 2007, while the 2010 appeals concern actions taken by the district court at the end of 2010.

4. Consolidating the 2007 appeals with the 2010 appeals will result in additional delay in the resolution of the many issues in the 2007 appeals. In addition, such consolidation would greatly confuse the posture of the case, inasmuch as the six defendants-appellants in the 2007 appeals are not all similarly situated with the three defendants-appellants in the 2010 appeals. Indeed, as the movants note, defendant Whiting affirmatively objects to the consolidation of the 2007 appeals with the 2010 appeals. Motion to Consolidate at 4.

5. Under those circumstances, the United States respectfully submits that the simplest and most expeditious course of action would be for the Court to continue to resolve the 2007 appeals in accordance with the existing briefing schedule. The United States would not oppose a stay of the 2010 appeals pending resolution of the 2007 appeals.

Wherefore, the United States respectfully opposes the motion to consolidate the 2007 appeals with the 2010 appeals.

Respectfully submitted,

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January 11, 2011

CERTIFICATE OF SERVICE

I, Daniel Steven Goodman, do hereby certify that on January 11, 2011, I caused to be served by the electronic case filing (ECF) system a true and correct PDF copy of the Opposition of the United States to Motion to Consolidate Appeals upon the following individual:

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